

EXHIBIT F

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

Estate of VALERIE YOUNG, by VIOLA YOUNG, as
Administratrix of the Estate of Valerie Young,
and in her personal capacity, SIDNEY YOUNG, and
LORETTA YOUNG LEE,

Plaintiffs,

-against-

Index No.
07CV6241

STATE OF NEW YORK OFFICE OF MENTAL RETARDATION
AND DEVELOPMENTAL DISABILITIES, PETER USCHAKOW,
personally and in his official capacity, JAN
WILLIAMSON, personally and in her official
capacity, SURESH ARYA, personally and in his
official capacity, KATHLEEN FERDINAND, personally
and in her official capacity, GLORIA HAYES,
personally and in her official capacity, DR.
MILOS, personally and in his official capacity,
Defendants.

-----X

EXAMINATION BEFORE TRIAL of the
Plaintiff, SIDNEY YOUNG, taken by the Defendant,
pursuant to Notice, held at the Office of the
Attorney General, 120 Broadway, New York, New
York 10271, on January 28, 2008, at 11:20 a.m.,
before a Notary Public of the State of New York.

1 S. YOUNG

2 clothes, paying her medical bills. You are
3 saying your mother paid for all of that?

4 A. My mother and father.

5 MR. KAISER: Objection.

6 Q. Tell me about Valerie Young. What
7 was her date of birth?

8 A. August 6th, 1955.

9 Q. How long did she live in the
10 household with you?

11 A. Until 1990.

12 Q. What happened after 1990?

13 A. She went to the development center.

14 Q. Do you know what age she was when
15 she was removed from the household?

16 A. About 36, I think. She was about
17 36.

18 Q. Do you know the reasons why she was
19 removed at that point?

20 A. At that point they were getting
21 kind of old. She was getting out of hand.

22 Q. You are saying --

23 A. You know, parents get older -- they
24 couldn't, you know, it was hard.

25 Q. When you say, "it was hard," what

1 S. YOUNG

2 do you mean?

3 A. I guess, when they were younger,
4 they thought it was easier, but as they started
5 getting older, the older she got, the more
6 violent she got.

7 Q. Was she violent towards you?

8 A. Not that much. I was her little
9 brother.

10 Q. How about your sister?

11 A. Not too much.

12 Q. Was she violent towards your
13 parents?

14 A. Off and on.

15 Q. Was your understanding that is the
16 main reason she was institutionalized because it
17 was getting harder to control her?

18 A. Right.

19 Q. When she was removed from your
20 house, do you know where she went to first?

21 A. Yes.

22 Q. Where?

23 A. Brooklyn Developmental Center.

24 Q. Brooklyn Developmental Center?

25 A. Yes.

1 S. YOUNG

2 MR. KAISER: Objection.

3 A. One to three years before.

4 Q. When did she start demonstrating
5 this aggressive behavior?

6 MR. KAISER: Objection.

7 A. It was on and off throughout her
8 whole lifetime.

9 Q. Do you know what medications were
10 prescribed for her?

11 MR. KAISER: Objection.

12 MR. VELEZ: Counsel, what is the
13 basis of your objection?

14 MR. KAISER: As to form and asking
15 him for medical opinion that he probably doesn't
16 even know.

17 MR. VELEZ: He is bringing a
18 lawsuit.

19 MR. KAISER: He shouldn't have to
20 know what prescriptions she was prescribed.

21 MR. VELEZ: I am not asking he
22 has to know.

23 MR. KAISER: I have a right to
24 object to the form.

25 MR. VELEZ: I am entitled to find

EXHIBIT G

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 Estate of VALERIE YOUNG, by VIOLA YOUNG,
5 as Administratrix of the Estate of
6 Valerie Young, and in her personal
7 capacity, SIDNEY YOUNG, and LORETTA
8 YOUNG LEE,

9 Plaintiffs,

Index No.:

10 vs.

07CV6241

11 STATE OF NEW YORK OFFICE OF MENTAL
12 RETARDATION AND DEVELOPMENTAL
13 DISABILITIES, PETER USCHAKOW,
14 personally and in his official
15 capacity, JAN WILLIAMSON, personally
16 and in her official capacity, SURESH
17 ARYA, personally and in his official
18 capacity, KATHLEEN FERDINAND,
19 personally and in her official
20 capacity, GLORIA HAYES, personally and
21 in her official capacity, DR. MILOS,
22 personally and in his official capacity,

23 Defendants.

24 -----X

25 April 11, 2008

10:06 a.m.

18 Examination before trial of PETER
19 ALEXANDER USCHAKOW, held at the offices
20 of The Catafago Law Firm, P.C., 350 Fifth
21 Avenue, New York, New York, pursuant to
22 Notice, before Wendy D. Boskind, a
23 Registered Professional Reporter and
24 Notary Public of the State of New York.
25

1 Uschakow

2 coordinator of quality assurance as well
3 as the deputy for operations for the
4 follow-up.

5 Q. And who were those
6 individuals that you shared it with?

7 Was it Judith Beer?

8 A. I don't remember if it was
9 Judith Beer or Rick Lippel.

10 Q. And who was the other
11 individual?

12 A. Suresh Arya or Jan
13 Williamson.

14 Q. Incidentally, you would
15 have -- during the time period of January
16 2005 until Valerie's death, you were --
17 you would have leadership team meetings
18 on a weekly basis; is that correct?

19 A. I had the executive cabinet
20 meetings.

21 Q. So who participated in the
22 executive cabinet meetings?

23 A. The deputy director for
24 community services, the deputy director
25 for operations -- uh -- the affirmative

1 Uschakow

2 action officer, the coordinator of
3 quality assurance, the director of
4 personnel, and on and off the business
5 office.

6 Q. And what were the purposes of
7 those weekly executive committee team
8 meetings?

9 A. For me to share with them
10 information that had come out of central
11 office that may impact on their certain
12 operational areas of the facility budget,
13 any new guidelines from the oversight --
14 federal oversight entities.

15 Q. At these meetings, were any
16 desired changes in policies and
17 procedures ever discussed?

18 A. Not that I remember.

19 Q. And who chaired the meetings?
20 Was it you or --

21 A. Yes, I would send out an
22 agenda and ask for agenda items.

23 Q. Did there ever come a time
24 that you disagreed with any of the
25 statements that are set forth in the

1 Uschakow

2 official State finding that is Williamson
3 Exhibit 3?

4 A. For those recommendations
5 that are specific to medical sciences or
6 physical therapy, I do not feel qualified
7 to agree or disagree. I would give that
8 over to, again, the deputy for operations
9 and quality assurance coordinator, to
10 meet with their experts to decide whether
11 or not to honor the recommendations,
12 implement the recommendations, or for
13 whatever reason to reject the
14 recommendations.

15 Q. And who had the ultimate
16 responsibility, at BDC, to respond to
17 this letter addressed to you?

18 A. Me.

19 Q. Did you respond directly to
20 this letter addressed to you?

21 A. I don't remember.

22 Q. In the official State BDC
23 finding, it says, and I quote: "I
24 suspect that Ms. Young may have spent
25 extended periods of time in her

Uschakow

wheelchair", period closed quote. I'm reading from the first page of that exhibit.

Did you ever do anything, as director at BDC, to investigate whether or not that was an accurate statement of fact?

A. I do recall seeing Valerie Young ambulate with assistance after the telephone call from Mrs. Viola.

Q. I understand, but you can't tell me what decade that was in.

A. No.

Q. So I'm asking you whether or not, after you got this official State finding, in October of 2005, where it is said: "I suspect that Ms. Young may have spent extended periods of time in her wheelchair", whether or not you did anything to investigate the accuracy or inaccuracy of that statement of fact.

A. I, as a director, do not do investigations.

Q. Who would have --

1 Uschakow

2 Q. So in some instances, and
3 without recalling the specifics, you do
4 recall that physicians at BDC would issue
5 standing orders to have patients walk,
6 patients who are in a wheelchair.

7 A. Yes.

8 Q. Do you know whether or not
9 Dr. Milos, or anyone else at BDC, did so
10 for Valerie Young?

11 A. I do not know.

12 Q. Can you tell me any reason at
13 all why there wouldn't have been a
14 standing order for Valerie Young, as
15 opposed to the other patients that you
16 saw.

17 A. Again, not being a medical
18 professional or a physical therapist or
19 an occupational physical therapist, I
20 cannot answer that.

21 Q. Can you tell me what
22 criteria, if any, there would be for a
23 physician under your charge, as director,
24 to determine if a particular patient
25 should get an order to walk to avoid this

1 Uschakow

2 Q. Can you tell me whether or
3 not Dr. Milos, or any other physician at
4 BDC, ever considered using elastic
5 stockings for Valerie Young prior to her
6 death?

7 A. I could not answer that.

8 Q. Did you ever speak to Dr.
9 Milos, or did he ever speak to you, about
10 Valerie Young's death?

11 A. No, not that I remember.

12 Q. Did anyone at BDC, following
13 Valerie Young's death, make any attempt
14 to determine approximately how much
15 walking she was given or allowed to do
16 prior to her death?

17 A. I do not know.

18 Q. Okay.

19 (Deposition Exhibit
20 Plaintiffs' Ferdinand 22, QCC Form
21 100 report of death, Bates stamped
22 CQC 38 through 41, previously
23 marked for identification.)

24 Q. I want to show you what was
25 previously marked as Ferdinand Exhibit

1 Uschakow

2 Q. Is that right?

3 MR. VELEZ: You have already
4 asked this.

5 Q. Do you know if Ms. Beer sent
6 anything to Mr. Rappaport? She writes
7 here that she would be happy to forward
8 the procedures upon their completion,
9 that's November 5, 2005, do you know if
10 she ever sent anything to him?

11 A. I do not know.

12 Q. Do you know if she, or anyone
13 else at BDC, ever developed these
14 procedures?

15 A. I do not know.

16 Q. And in connection with the
17 development of procedures following
18 recommendations from a State agency
19 concerning the death of a BDC patient,
20 would you review those procedures at any
21 point in your role as director?

22 A. I --

23 Q. If, in fact, the procedures
24 were developed.

25 A. I would review some.

1 Uschakow

2 Certainly, those that are
3 very discipline-specific, I would not
4 necessarily review them.

5 Q. Who would make the
6 determination as to whether or not you
7 would review a policy and procedure that
8 was implemented following the State
9 agency finding?

10 A. If there were concerns of the
11 discipline coordinator, their
12 supervisors, or deputy level.

13 Q. So they would make the
14 determination?

15 A. Or ask for my review, yes.

16 Q. And no one ever told you
17 anything about the preparation of
18 procedures in accordance with this
19 letter; right?

20 A. Not that I remember.

21 Q. Okay. Can you think of any
22 reason at all why, if there were such
23 procedures, they wouldn't have been
24 produced in this case, as part of the
25 discovery?

1 Uschakow

2 Q. Do you recall having a
3 discussion about the treatment and care
4 of Valerie Young with anyone at BDC prior
5 to her death?

6 A. I do recall relaying to the
7 deputy director concerns about reduced
8 ambulation on the part of Valerie Young
9 after a phone call by Mrs. Viola Young.

10 Q. And when you said you recall
11 a discussion with the deputy director of
12 operations, are you referring to Arya or
13 Jan Williamson?

14 A. I am not sure which one it
15 was.

16 Q. Can you describe, in greater
17 detail, the substance of your
18 conversation with the deputy director at
19 that time?

20 A. That Viola Young -- Mrs.
21 Viola Young, had called me to air her
22 concern about Valerie's reduced walking
23 ability, and I shared exactly that with
24 the deputy for follow-up with the
25 treatment team.

1 Uschakow

2 Q. And did anyone report back to
3 you, after you shared that with your
4 deputy director?

5 A. I do not recall.

6 Q. Do you recall you following
7 up with anyone to determine what had
8 happened after you had spoken to the
9 deputy director?

10 A. I do recall, after the phone
11 conversation, seeing Valerie in Building
12 5 being assisted to walk.

13 Q. That wasn't my question. We
14 will get to that in a second.

15 My question is, did you
16 follow up with anyone.

17 A. No.

18 MR. VELEZ: Counsel, that can
19 be construed as "follow-up",
20 because --

21 MR. CATAFAGO: Okay, so let's
22 go there.

23 Q. When you saw her in Building
24 5, was it happenstance viewing or were
25 you specifically going to see whether or

1 Uschakow

2 not anything had been done following your
3 discussion with the deputy director?

4 A. I periodically make rounds of
5 all of the program areas, and happened to
6 see Valerie.

7 Q. And you saw her being
8 assisted with someone?

9 A. Yes.

10 Q. Do you know who was assisting
11 her?

12 A. No.

13 Q. Was it one person or more
14 than one?

15 A. I remember one person.

16 Q. Was she using a wheelchair at
17 the time?

18 A. No.

19 Q. Was the wheelchair beside her
20 at the time?

21 A. I don't recall seeing it.

22 Q. Did you ever see Valerie
23 Young in a wheelchair at all?

24 A. Yes.

25 Q. How many times?

1 Uschakow

2 A. I couldn't tell you.

3 Q. Did you see her -- withdrawn.

4 You made -- you would make
5 rounds periodically or was it regular
6 that you would make rounds?

7 A. I don't understand the
8 question.

9 Q. Well, when you were director
10 at BDC, how often would you walk around
11 to look at the patients?

12 A. It varies, it varies on the
13 pressures of the office.

14 Q. Approximately how many times,
15 if you can approximate, did you actually
16 see Valerie Young?

17 MR. VELEZ: During what time?

18 MR. CATAFAGO: The time that
19 she was there.

20 Q. Once a week?

21 A. As a direct-- since my
22 arrival there?

23 Q. Well, since your arrival
24 there, since you were deputy director.

25 A. No way I could count.

1 Uschakow

2 looking into the existence of those
3 documents.

4 MR. CATAFAGO: Thank you,
5 that's fine.

6 I have no questions.

7 MR. VELEZ: I have a few
8 questions.

9 MR. CATAFAGO: If it's going
10 to be more than a few, then we're
11 going to cut the transcript, and
12 you'll pay for it.

13 MR. VELEZ: Fine, fine.

14 (Time noted: 11:35 a.m.)

15 BY MR. VELEZ:

16 Q. You testified that you saw
17 Valerie Young ambulate with assistance of
18 staff. When was the last time that you
19 remember seeing that?

20 MR. CATAFAGO: Objection.

21 A. It would -- it was after the
22 telephone call from Mrs. Viola Young,
23 where she aired her concerns about
24 Valerie's reduced ability to walk
25 independently.

1 Uschakow

2 Q. Now, so we're clear on the
3 time frame, because counsel tried to make
4 it seem it could have been a decade or
5 so --

6 MR. CATAFAGO: Let's not do
7 that.

8 MR. VELEZ: Let's not do
9 that?

10 MR. CATAFAGO: Let's not talk
11 about counsel.

12 MR. VELEZ: You said --

13 MR. CATAFAGO: After you made
14 a point --

15 MR. VELEZ: Okay.

16 MR. CATAFAGO: You narrow it
17 down, it's from 2001.

18 MR. VELEZ: Okay, but you did
19 state it could have been a decade
20 ago.

21 Q. If I were to advise you that
22 Viola Young testified under oath, during
23 her deposition, that she called you
24 sometime in April/May 2005 to express her
25 concern about Valerie Young's ambulation,

1 Uschakow

2 would that refresh your recollection as
3 to when you then observed Valerie Young
4 ambulating with assistance of staff?

5 A. I can categorically state
6 that it was after her telephone
7 conversation.

8 Q. So if your telephone
9 conversation with her occurred in April
10 of 2005 or May of 2005, it would have
11 been after that.

12 A. That's correct.

13 Q. Now, you were shown
14 Williamson Exhibit 10.

15 Can you look at the last
16 page, under Recommendations.

17 A. (Pause.)

18 Q. Number 2, in particular.

19 A. (Pause.)

20 Okay.

21 Q. You were asked if were you
22 aware if any instructions were given for
23 Valerie Young to use elastic stockings.
24 Do you remember being asked that
25 question?

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, WENDY D. BOSKIND, an RPR
and Notary Public within and for
the State of New York, do hereby
certify:

That PETER ALEXANDER
USCHAKOW, the witness whose
examination before trial is
hereinbefore set forth, was duly
sworn by me, and that such deposition
is a true and accurate record of the
testimony given by the witness.

I further certify that I am
not related to any of the parties to
this action by blood or marriage, and
that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 22nd day
of April, 2008.

Wendy D. Boskind

EXHIBIT H

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 Estate of VALERIE YOUNG, by VIOLA YOUNG,
6 as Administratrix of the Estate of
7 Valerie Young, and in her personal
8 capacity, SIDNEY YOUNG, and LORETTA
9 YOUNG LEE,

10 Plaintiffs,

Index No.:

11 vs.

07CV6241

12 STATE OF NEW YORK OFFICE OF MENTAL
13 RETARDATION AND DEVELOPMENTAL
14 DISABILITIES, PETER USCHAKOW,
15 personally and in his official
16 capacity, JAN WILLIAMSON, personally
17 and in her official capacity, SURESH
18 ARYA, personally and in his official
19 capacity, KATHLEEN FERDINAND,
20 personally and in her official
21 capacity, GLORIA HAYES, personally and
22 in her official capacity, DR. MILOS,
23 personally and in his official capacity,

24 Defendants.

25 -----X

April 8, 2008

9:59 a.m.

17
18 Examination before trial of SURESH
19 ARYA, held at the offices of The Catafago
20 Law Firm, P.C., 350 Fifth Avenue, New
21 York, New York, pursuant to Notice,
22 before Wendy D. Boskind, a Registered
23 Professional Reporter and Notary Public
24 of the State of New York.
25

1 Arya

2 behavior issues, any other problems like
3 person has a -- if there were any
4 complaints.

5 I was not directly involved
6 on day-to-day operations.

7 Q. Were you aware of any
8 behavioral issues or complaints involving
9 Valerie Young?

10 A. Yes.

11 Q. When did you first become
12 aware of that?

13 A. I don't remember exactly.

14 While I was there, a number
15 couple of times Mrs. Young was concerned,
16 she wanted to increase the medications,
17 but the medical staff did not feel
18 appropriate. So we had a meeting of all
19 the physicians in the development center,
20 all the psychiatrists, with Mrs. Young,
21 and she was explained what the situation
22 was, she agreed with the treatment plan,
23 and then it was implemented.

24 MR. VELEZ: And, just so
25 we're clear, when you say "Mrs.

Arya

the meetings?

A. Like I said to you, most of the doctors, psychiatrists, Valerie's treatment team members, and also Mrs. Young, and that's the mother.

Q. Again, with Exhibit 2 in front of you, as deputy director of operations, overseeing the business office, what exactly did you do, overseeing the business office?

A. The business officer who is in charge of business office, and he reported to me to discuss --

Q. I'm sorry, who was that?

A. That was Tom McNamara.

Q. Okay, Tom McNamara. And who at -- which team leader reported to you regarding Valerie Young?

A. That was Kathy Ferdinand.

Q. Kathy Ferdinand. Have you spoken to Kathy Ferdinand at all since leaving BDC in 2004?

A. Relating to?

Q. Anything.

1 Arya

2 A. I met her -- the director was
3 retiring, and when I saw her I just said
4 hello.

5 Q. I'm sorry?

6 A. I just said hello to her,
7 just like greeting anyone else.

8 Q. Since leaving BDC in
9 September 2004, have you spoken to anyone
10 about Valerie Young?

11 A. No.

12 Q. Do you recall what
13 medications Valerie Young was prescribed?

14 A. No.

15 Q. Do you recall what side
16 effects, if any, the medications --

17 A. No.

18 Q. -- prescribed had on her?

19 A. I don't know.

20 Q. Who's responsibility was it,
21 if you know, to monitor those things?

22 A. Uh --

23 Q. While you were deputy
24 director of operations.

25 A. The medical person, the

1 Arya

2 Q. So your testimony is she
3 never complained to you.

4 A. Not about the physical
5 therapy or anything else.

6 Q. Did she complained to you --
7 according to your own testimony, did she
8 complain to you regarding anything --

9 A. Yes, she complained about her
10 behavior. That was basically about her
11 behavior.

12 Q. What did she say about her
13 behavior?

14 A. She was unmanageable,
15 uncontrollable. She wanted to give her
16 more psychotropic medication, and the
17 physicians did not feel, because of
18 medical reasons and other things,
19 appropriate. But that's why we called
20 for a special meeting.

21 Q. I see.

22 A. All the medical staff and
23 nurses and her whole treatment team and
24 psychiatrists explained to her, and she
25 was very pleased with the outcome of the

1 Arya

2 meeting at that time.

3 Q. During your tenure, was
4 Valerie getting physical therapy?

5 A. I will not recall that case
6 by case every case.

7 Q. Do you recall anything at all
8 as to whether or not she ever got
9 physical therapy?

10 A. I cannot. I cannot.

11 (Deposition Exhibit

12 Plaintiffs' Arya 5, document, part
13 of the policy and procedure manual,
14 Bates stamped D 1176, marked for
15 identification, as of this date.)

16 Q. I want to show you what's
17 been marked as Exhibit 5. It was Bates
18 stamped D 1176.

19 Do you recognize that as part
20 of the policy and procedure --

21 A. Yes.

22 Q. -- manual?

23 A. Yes, mm-hmm.

24 MR. VELEZ: You need to say

25 "Yes" or "No".

1 Arya

2 as deputy director.

3 A. My staff, the whole team, the
4 deputy director, physician.

5 Q. My question is, was it part
6 of your job.

7 A. Yes, it was.

8 Q. Do you know if Valerie Young
9 was fully ambulatory when she was under
10 the care of BDC, while you were deputy
11 director?

12 A. Yes.

13 Q. She was?

14 A. She was ambulatory at times.
15 She used to be unsteady on her feet, but
16 she used to walk around, yes.

17 Q. She used to walk around.

18 A. Yes.

19 Q. Did you ever see her be very
20 sedated?

21 In other words, unable to
22 stay on her feet.

23 A. Not really, I have not seen
24 her.

25 In fact, like I said to you

1 Arya

2 before, the mother wanted her heavily
3 sedated and the team was not in favor of
4 it.

5 Q. I see. Did the mother say
6 why she wanted her heavily sedated?

7 A. Because her behavior was so
8 bad, she used to -- (indicating) -- flail
9 her hands, she was not standing in one
10 place.

11 Sometimes -- it was lot of
12 behavior issues.

13 Q. If there was a behavior issue
14 involved --

15 A. It was psychiatric condition,
16 not behavior, it was psychiatric
17 condition, but because of the medical
18 reason, sometimes you cannot give
19 medications.

20 Q. Are you aware of the
21 occurrence reports on a minor?

22 A. Yes, mm-hmm.

23 Q. Do you know whether or not
24 the behavior that the mother was
25 complaining about was such that as to

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, WENDY D. BOSKIND, an RPR
and Notary Public within and for
the State of New York, do hereby
certify:

That SURESH ARYA, the
witness whose examination before
trial is hereinbefore set forth, was
duly sworn by me, and that such
deposition is a true and accurate
record of the testimony given by the
witness.

I further certify that I am
not related to any of the parties to
this action by blood or marriage, and
that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 23rd day
of April, 2008.

Wendy D. Boskind

VERITEXT REPORTING COMPANY

EXHIBIT I

ORIGINAL

1

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 Estate of VALERIE YOUNG, by VIOLA YOUNG,
6 as Administratrix of the Estate of
7 Valerie Young, and in her personal
8 capacity, SIDNEY YOUNG, and LORETTA
9 YOUNG LEE,

10 Plaintiffs,

11 Index No.:

12 vs.

13 07CV6241

14 STATE OF NEW YORK OFFICE OF MENTAL
15 RETARDATION AND DEVELOPMENTAL
16 DISABILITIES, PETER USCHAKOW,
17 personally and in his official
18 capacity, JAN WILLIAMSON, personally
19 and in her official capacity, SURESH
20 ARYA, personally and in his official
21 capacity, KATHLEEN FERDINAND,
22 personally and in her official
23 capacity, GLORIA HAYES, personally and
24 in her official capacity, DR. MILOS,
25 personally and in his official capacity,

Defendants.

-----X

April 10, 2008

10:09 a.m.

17
18 Examination before trial of JAN
19 WILLIAMSON, held at the offices of The
20 Catafago Law Firm, P.C., 350 Fifth
21 Avenue, New York, New York, pursuant to
22 Notice, before Wendy D. Boskind, a
23 Registered Professional Reporter and
24 Notary Public of the State of New York.
25

Williamson

Q. January of 2008.

A. Yes.

Q. Okay.

(Deposition Exhibit

Plaintiffs' Arya 2, organizational
chart of BDC, Bates stamped D 1150,
previously marked for
identification.)

Q. I want to show you this
document, which previously was marked as
Exhibit 2 during Mr. Arya's deposition.

A. Mm-hmm.

Q. It's Bates stamped D 1150.

I'm going to ask you whether
or not this organizational chart of BDC
accurately reflects your responsibilities
as deputy director of operations.

A. At the time that I was the
acting deputy director, yes.

Q. When -- how, if at all, did
those responsibilities change?

A. Uh --

Q. Since that time.

A. Since that time -- uh, the

Williamson

considered --

A. I don't --

Q. -- by Dr. Milos or any other member of the team?

MR. VELEZ: Objection.

You can answer.

A. I wouldn't know.

Q. Did you interview members of the team as part of the investigation?

A. No.

Q. Did you speak to members of the team at the meeting?

A. This meeting, (indicating)?

Q. Yes.

A. No, not individually.

Q. Did you ask any questions at the meeting?

A. Um -- probably, because there are diagnoses here that I am not familiar with, so just for clarification.

Q. Anything else?

A. No.

Q. Did you ever review -- as part of your job at BDC, as acting and

Williamson

A. Not that I recall.

Q. Did Dr. Milos ever say anything to you about the wheelchair?

A. I would have spoken with Kathy Ferdinand.

Q. And what was -- if you know, what was the purpose of her communicating with you?

A. There was a concern raised by the treatment team that Valerie was at risk of falling, having to do with her dropped foot, and she also displayed behaviors where she would attempt to strike out both with hands and legs, so you couple that with the unsteadiness, we had great concerns about her going any distance while walking. So, the treatment team was recommending that she use a wheelchair for transport to go from her residential unit to where her day treatment program would be. It was in a separate building. And I supported that and ensured that a wheelchair was available for that purpose.

Williamson

Q. -- or....

Did you have the authority and responsibility of okaying or denying that request, for a wheelchair?

A. No, that wouldn't -- that's a treatment team decision.

Q. So what was the purpose in contacting -- if you know.

A. Well, first of all, to make me aware that there was a medical concern going on --

Q. Right.

A. -- and my responsibility was to ensure that a wheelchair would be made available for her as needed.

Q. So your responsibility was to procure the wheelchair, not to prescribe it.

A. Correct.

Q. Were there any guidelines in effect as to when a wheelchair would be procured for a consumer or a patient at BDC?

A. No.

Williamson

Q. Okay.

A. It's an on as-needed basis.

Q. As deputy director of operations, from September 2004 through June 30th, 2005, did you ever review any of the records pertaining to the treatment and care of Valerie Young?

A. No.

Q. Did you ever ask to review any of those records?

A. No.

Q. Did you ever speak to Peter Uschakow about Valerie Young, or he to you?

A. Wow --

Q. If you know.

A. I don't remember.

Q. Did you ever speak to any member of Valerie's family?

A. No -- um -- you know what? I don't remember if I spoke to her mom or not on the phone.

Q. Did you ever -- while you were deputy director of operations, from

Williamson

September 2004 through June 2005, did you ever observe anyone walking Valerie, assisting her in walking?

A. Yes.

Q. How many times, approximately?

A. Ah -- a number, but I can't put a number to it, because I didn't work directly with her.

Q. Approximately -- more than five?

A. Oh, yeah.

Q. More than ten?

A. I would say.

Q. I'm saying for the time period September --

A. Sure, sure -- we're talking a number of months here -- probably 30, 40 times.

Q. And would -- and during those times when you saw people walking her, was it one person or more than one person that was assisting her?

A. Most times it was one person,

Williamson

but a second would be nearby.

Q. Did you ever come to know that she had received physical therapy at the facility?

A. Um -- at the mortality review.

Q. That's the first time you learned about it?

A. Yes.

Q. As part of your working at BDC, did you ever go to the facility where physical therapy was offered to patients?

A. Physical therapy takes place in our facility --

Q. Right.

A. -- so --

Q. Is it at a particular location of the facility?

A. Yes, it is.

Q. Did you ever go there?

A. Yes, I have.

Q. Did you ever see Valerie there?

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, WENDY D. BOSKIND, an RPR
and Notary Public within and for
the State of New York, do hereby
certify:

That JAN WILLIAMSON, the
witness whose examination before
trial is hereinbefore set forth, was
duly sworn by me, and that such
deposition is a true and accurate
record of the testimony given by the
witness.

I further certify that I am
not related to any of the parties to
this action by blood or marriage, and
that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 22nd day
of April, 2008.

Wendy D. Boskind

EXHIBIT J

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 Estate of VALERIE YOUNG, by VIOLA YOUNG,
6 as Administratrix of the Estate of
7 Valerie Young, and in her personal
8 capacity, SIDNEY YOUNG, and LORETTA
9 YOUNG LEE,

10 Plaintiffs,

Index No.:

11 vs.

07CV6241

12 STATE OF NEW YORK OFFICE OF MENTAL
13 RETARDATION AND DEVELOPMENTAL
14 DISABILITIES, PETER USCHAKOW,
15 personally and in his official
16 capacity, JAN WILLIAMSON, personally
17 and in her official capacity, SURESH
18 ARYA, personally and in his official
19 capacity, KATHLEEN FERDINAND,
20 personally and in her official
21 capacity, GLORIA HAYES, personally and
22 in her official capacity, DR. MILOS,
23 personally and in his official capacity,

24 Defendants.

25 -----X

April 7, 2008

10:11 a.m.

18 Examination before trial of KATHLEEN
19 A. FERDINAND, held at the offices of The
20 Catafago Law Firm, P.C., 350 Fifth Avenue,
21 New York, New York, pursuant to Notice,
22 before Wendy D. Boskind, a Registered
23 Professional Reporter and Notary Public
24 of the State of New York.
25

Ferdinand

of test that could be done for blood clots.

Q. And whose job was it who had control of whether or not to administer that test while you were treatment team leader?

A. I guess it would have been the doctor.

Q. And the doctor was Dr. Milos?

A. Yes.

Q. Do you know what, if anything, he said regarding the decision not to administer the test?

A. It wasn't a decision not to administer a test, because we didn't know that she had a blood clot, and there was no indication that she had a blood clot.

Q. And how -- withdrawn.

When did you -- did you ever learn that she was in -- confined to a wheelchair?

A. She wasn't confined to a wheelchair.

Q. Was she using a wheelchair at

Ferdinand

the time --

A. She was using a wheelchair
for transport.

Q. Only for transport.

A. To transport to and from
program.

Q. Was she using a wheelchair
for any other reason?

A. No.

Q. Did you ever see anyone walk
with her?

A. Yes.

Q. Assist her walking?

A. Yes, staff would have to
assist her in walking.

Q. Did you ever personally
observe her --

A. Yes.

Q. Which staff members did you
personally observe walking her?

A. Oh, God, you're asking me to
remember --

Q. Yes.

A. I can't remember -- I don't

1 Ferdinand

2 speculating, only --

3 MR. CATAFAGO: Okay.

4 Q. Tell me what you know, and if
5 you don't --

6 A. Well, you know, I make
7 rounds, I would see her particularly in
8 the morning time, when the consumers
9 would go to program, I would see people
10 assist her.

11 Q. How many different people?

12 A. One, sometimes two.

13 Q. How often, in the six months
14 prior to her death, did you observe
15 someone assist her?

16 A. You asked me that before, and
17 I told you I don't know exactly.

18 MR. CATAFAGO: Let's have
19 these documents marked. This will
20 be the witness's name Exhibit 1,
21 it's Bates stamped CQC 202,

22 (Deposition Exhibit
23 Plaintiffs' Ferdinand 1, document,
24 which looks like an adaptive
25 equipment work order, Bates stamped

Ferdinand

THE WITNESS: Why would I
keep a copy?

Q. I'm sorry?

A. (Laughing.)

Q. Did you ever discuss
Valerie's treatment and care with any
member of her family?

A. Ms. Young would come in
periodically and sit and talk --

MR. VELEZ: Can you clarify
who you mean by "Ms. Young"?

A. Ms. Viola Young, who is
Valerie's mother.

Q. And do you recall any
specific conversation you had with her,
regarding her daughter?

A. Ms. Young would come in
sometimes and we would have various
conversations, sometimes about her
daughter, sometimes not about her
daughter.

Q. And what, if anything, do you
recall discussing about her daughter
with --

1 Ferdinand

2 A. I don't know. Ms. Young was
3 always -- Valerie was somewhat -- was,
4 behaviorally, very challenging. And
5 there were times that it was very
6 difficult to get Valerie stabilized. So,
7 a lot of times Ms. Young would be
8 concerned about medication -- well, maybe
9 she's getting too much medication, maybe
10 she's not getting enough medication. And
11 those were generally the conversations
12 Ms. Young would approach me with.

13 And when we did have those
14 conversations, I generally would tell her
15 how Valerie was doing, and then if she
16 had any other questions, refer her to the
17 doctor.

18 Q. And that was Dr. Milos?

19 A. Yes.

20 Q. And when she -- did you ever
21 discuss with Valerie's mom your
22 understanding, if any, of the medications
23 or did you just simply refer her to the
24 doctor?

25 A. I would not discuss -- since

Ferdinand

records somewhere.

Q. Were any instructions given to team members as to how often to use the wheelchair for Valerie?

A. Yes. The wheelchair was to be used for transport.

Q. Only for transport?

A. Yeah, basically that.

Q. Were you aware of any order or directive indicating that it could be used for any other reason?

A. No.

Q. Were you ever aware of any back problems that Valerie had?

A. No.

Q. Were you ever aware of any swelling of her feet or legs?

A. No.

Q. Did anyone else act as treatment team leader for Valerie, other than yourself?

A. During the time she's been at OMRDD?

Q. Yes.

Ferdinand

A. Probably 50-something patients.

Q. And how many different team members were there in your team in which you were team leader while you were in charge of the treatment of Valerie Young?

A. We had the doctor, we have a whole -- an entire interdisciplinary team. We had the doctor, nurses, direct care, speech, OT, PT -- um -- who did I leave out -- recreation -- um -- of course the psychiatrist that we would consult with. We shared a psychiatrist.

Q. Physical therapist?

A. Yeah, I said PT.

Q. "PT", physical therapist?

A. Yeah.

Q. Anybody else?

A. Who am I forgetting -- no, I guess that's probably it.

Q. Did the medication that Valerie was prescribed sedate her to the point that she couldn't walk?

A. No.

Ferdinand

Q. Did it affect her ability to walk at all?

A. Well, she was having problems walking, because she was falling a lot.

Q. I'm asking -- yeah -- the medication.

A. Let me finish.

She was having problems walking, and that's why the wheelchair had gotten ordered, because she was falling so much, and I had so many incidents with her falling that I was concerned that she was going to fall and hit her head, and really hurt herself.

Q. And --

A. Now, I don't believe it was medication, I believe it was something else, but I'm a layperson, I don't know, (gesturing).

Q. Was a mat ever used for her?

A. I don't remember, to tell you the truth.

Q. Are there instances where a mat is not permitted for a patient?

Ferdinand

(indicating)?

A. I see it, yes, I do.

Q. What was your understanding of, quote, "wheelchair for all mobility needs"?

A. Okay, right now? At that point -- basically, was for her being transported to and from program.

Q. Was "all mobility" -- the term "all mobility needs" anything in addition to or on top of transportation?

A. No.

Q. Okay.

A. No, absolutely not.

Q. Did you have anything to add on this, (indicating)?

A. No.

Q. Because Mr. Velez is right, I tend to do that, and I want you to have the ability to say whatever you need to on these documents?

MR. CATAFAGO: So let's have this document marked as Ferdinand Exhibit 9, Bates stamped Young 108,

Ferdinand

Q. In this Special incident review committee report, it is indicated, and I quote: "It was also noted that, fearing she might fall, staff may not have encouraged Ms. Young to walk", period, closed quote.

Do you agree with that, that the staff didn't encourage her to walk, prior to her death?

A. I don't necessarily agree with that, no.

Q. And what about the sentence that reads: "Ms. Young had a history of pitting edema", do you know what that means?

A. Well, I know what "edema" is, it's swelling.

Q. Do you know if she had a history of pitting edema?

A. I have no idea.

Q. And it says --

A. I don't know what "pitting edema" is, by the way.

Q. At the time of her death,

Ferdinand

June 19th, 2005, was Ms. Young
ambulatory?

A. Was she -- she could walk,
yes.

Q. Did anyone ever consider
using elastic stockings for her?

A. I really don't know that.
That would have been ordered
by the doctor.

Q. Was that ever discussed with
you, as --

A. No.

Q. -- treatment team leader?

A. It wasn't -- I was not aware
that she had pitting edema, to tell you
the truth.

Q. And --

A. I don't remember it being
discussed.

Q. Going back, how often in June
of 2005 did you observe staff walking
with Ms. Young?

A. You really expect me to
remember that?

Ferdinand

believe, that she found it when she was braiding -- doing her hair.

Q. And there was no -- ultimately, there was insufficient evidence to support any allegation of neglect?

A. I think that's --

Q. I'm reading from 0208.

A. Yeah, I think that was the final finding.

Q. And in the conclusions, 0208, 0209, this is as of May 26, 2005 --

A. Mm-hmm.

Q. -- it says, and I quote: "Ms. Young was unstable at that time and, although she can ambulate independently, she required the use of a wheelchair".

Was that something that you were aware of at the time?

A. Where are you reading now?

Q. 0208 to 0209.

A. (Pause.)

Okay. And I see it's in writing, so I guess that's what was going

1 Ferdinand

2 on at the time.

3 Q. And what about the next page,
4 0210, what is -- that's the -- this is
5 attendees at the meeting regarding the
6 incident; right?

7 A. Right.

8 Q. And you were there?

9 A. Yes, I was there.

10 Q. And ultimately, although Ms.
11 Daly was returned to work assignment,
12 there was a finding, was there not, that
13 the other direct care worker, Toni,
14 T-O-N-I, McNeil, had failed to properly
15 supervise her attending -- assigned
16 supervisory duties.

17 I'm reading from 0209.

18 A. (Pause.)

19 Yes.

20 Q. And do you recognize the --
21 that portion of the document which is
22 Bates stamped 0212?

23 A. 0212 -- (pause).

24 Q. Was that something you
25 prepared?

1 Ferdinand

2 tolerated"? Did you agree with that?

3 A. Yeah, I guess there is no
4 reason not to agree with it.

5 Q. Do you know whether Dr. Milos
6 ever considered the use of elastic
7 stockings for Valerie Young?

8 MR. VELEZ: Objection.

9 A. Well --

10 MR. VELEZ: But you can
11 answer.

12 A. Well, Valerie wasn't non-
13 ambulatory, so I don't know whether he
14 ever ordered stockings for her or not, I
15 don't --

16 Q. Did he or anyone else ever
17 discuss with you the use, or potential
18 use, of elastic stockings for Valerie
19 Young?

20 A. No.

21 Q. Did he or anyone else at
22 OMRDD ever discuss with you, or you with
23 them, the need to walk Valerie Young when
24 she had the wheelchair?

25 A. No, because she was walking.

Ferdinand

She was walking at times. She wasn't just sitting in the wheelchair all the time.

Q. How many times a day was she walked?

A. How many times a day was she walked? She was periodically walked. She would walk in program.

Again, the wheelchair was basically used for transport.

Q. Well, how many minutes or hours a day would she walk typically --

A. I don't know.

Q. -- in May of 2005?

A. I can't tell you how many times.

Q. Can you tell me in any of the months preceding her death --

A. I have no idea. I can't remember.

Q. That's fair.

MR. CATAFAGO: Let's have this two-page document, Bates stamped Young 0013 and Young 0266,

Ferdinand

Q. That's my question.

A. I don't know.

Q. Now, was there anything that you felt and believed should have been done with Valerie as a result of her being in a wheelchair, whether walking her, giving her stockings, (indicating), massaging her feet, doing anything at all because she was in a wheelchair.

A. The wheelchair was just used for transport.

Q. That was your understanding.

A. That's right.

Q. And how many minutes or hours a day was it used for?

A. It should have been used to take her to program and to bring her back from program.

Q. And for no other purpose.

A. No.

Q. Is that correct?

A. It depends upon what time you are talking about, and I would have to refer to the record to let you know the

Ferdinand

specifics.

Q. And, rather than showing you
10,000 documents, I am asking for your --

A. Well --

Q. -- recollection whether or
not you are aware of Valerie using a
wheelchair for any reason, any purpose,
other than transport while she was under
your care.

A. No.

Given the time frame that
you're talking about, you're talking
about directly before her death?

Q. I'm talking about while she
was under your care, ma'am.

A. Well, that was for some --
10,000 years, and I don't remember.

Q. Was it for 10,000? It wasn't
10,000.

A. It wasn't 10,000 years, but
you're talking about three or four or
five years back.

I can't remember yesterday,
so I can't definitely remember five years

Ferdinand

Q. -- or her inability to walk,
or whatever, was --

MR. VELEZ: Let him finish.

Q. -- caused in part by the
psychotropic medication?

A. No.

Q. Did you ever make any kind of
observation that she had an unsteady
gait?

A. She definitely had an
unsteady gait.

Q. Was there a discussion with
the doctor about it?

A. It was discussed at meetings.

Q. And what did the doctor say?

A. You know what? Right now, I
really can't remember.

Q. And --

A. Just that she had a dropped
foot, whatever that meant.

Q. Was there a medical order
issued for the wheelchair?

A. There would have had to have
been, yes.

Ferdinand

Q. And what was your understanding, that she would have to use the wheelchair for transport?

A. Yes.

Q. What about for any other purpose?

A. Um -- they may have used it if she was having a hard time going out to clinics, also.

Q. Who made the order for the wheelchair?

A. The doctor would have had to make the order for the wheelchair.

Q. Was there a standing order or was it --

A. No, we don't do a standing order, not unless the consumer is totally non-ambulatory is there any standing order for a wheelchair.

Q. So there was no standing order in this case for the wheelchair.

A. No, it wouldn't have been a standing order.

Q. Can you -- I mean, the

Ferdinand

wheelchair"?

Q. Yes.

A. For a wheelchair?

Q. Yes.

A. No.

Q. Take a look at the -- if there was a change in the wheelchair requirement, would there have to be a medical order issued?

A. We could change it via a team meeting.

Q. Would that have to be recorded somewhere?

A. Yeah. It would be probably recorded either in a quarterly or a special meeting.

Q. Was there ever any discussion with staff as to the length of time or the amount of time that Valerie should be walked without the wheelchair?

A. What are you talking about?

Q. I'm talking about in the five months before her death.

A. Again, the wheelchair was

Ferdinand

used for transport in those days.

Q. Only for transport.

A. Transport to and from
program.

Q. Take a look at 8055.

A. Because you have me looking
at a document that's 2004.

Q. That's right.

A. Okay, but you're talking
about 2005 now, just a minute ago.

Q. That's correct.

A. Okay, so you're trying to mix
me up.

Q. Not at all.

A. (Laughing.)

Q. The record will indicate
you're laughing, so I assume you get what
I'm trying to determine here.

If you're confused at any
time, let me know.

A. No -- well, I'm just asking,
because you have me looking at a 2004
document, and then you throw in something
about 2005.

Ferdinand

each discipline discuss their findings and recommendations, and then there's a team discussion. So my job, as the team leader, is to make sure all the team consensus really gets into the minutes.

Q. Did you believe that as of that time, in April 2004, that Valerie was fully ambulatory?

A. Yes, I do. If the wheelchair was discontinued.

Q. Did there come a time when you believed that she was no longer fully ambulatory?

A. Uh -- there must -- yes, there must -- well, when she was falling a lot.

Q. When was that? When did you come to believe that she was no longer fully ambulatory?

A. She was ambulatory, but she was falling a lot.

Q. Well, take a look at --

A. That's why I said, she was ambulatory but she had been falling an

Ferdinand

awful lot.

Q. Would you describe it --

A. And that was the concern when she was last put on the wheelchair, why she was given the wheelchair for transport, because she was falling a lot and injuring herself, and we were concerned that she was going to get seriously injured, like a head injury.

Q. And what about when she wasn't being transported?

A. What do you mean?

Q. Did she stay in the wheelchair so as to avoid a fall?

A. She wasn't in the wheelchair all the time.

Q. Where would she sit?

A. She would sit in a regular chair, staff would sometimes walk around with her --

Q. Would that be --

A. -- when she would allow them to walk her.

Q. Would that --

Ferdinand

A. It says -- under where?

Q. "Stress."

MR. VELEZ: (Indicating.)

A. Right. It says "fully ambulatory", but it also says at the top that she "continues to require close supervision when walking to and from facilities, social events, due to her non-compliant behavior".

Q. Right. What was your understanding of "fully ambulatory"?

A. She was able to walk.

Q. And what is "has full ROM in all her extremities"? "ROM", what does that mean?

A. Range of motion.

Q. And was it your understanding that she could walk with assistance at that time?

A. Yes.

(Deposition Exhibit

Plaintiffs' Milos 2, document, which looks like an IPP review reading on July 20th, 2004, Bates

Ferdinand

coordinator, who is recording the meeting, would record anything that was going on with physical therapy in that area.

Q. Did Valerie Young ever receive physical therapy at any point in 2004?

A. Didn't we just -- I don't remember.

Q. Did she receive physical therapy at any point in 2005?

A. I don't remember.

Q. Did you ever correct this --

A. In 2005, she did get physical therapy.

Q. When in 2005 did she get physical therapy?

A. I don't know.

I don't have the whole record in front of me.

Q. Well, what you have in front of you, ma'am, indicates that your team recommends integration of the following services.

Ferdinand

MR. VELEZ: (Indicating), two more pages.

Q. "Sensory slash motor", Roman numeral IV, the first full sentence, and I quote: "Valerie is a verbal ambulatory (with left foot drop and high stepping gait), woman who has full range of motion in upper and lower extremities".

Would you agree that that accurately described Valerie in April 2005 --

A. Yes.

Q. -- when she went under medication?

A. No.

I mean, that accurately described her --

Q. Okay.

A. -- at that point.

Q. And can you tell me whether if and to what extent you observed -- personally observed any effect that the medication had on her ambulatory and range of motion?

Ferdinand

the effect that the medication was having
on her, in terms of state of sedation --

A. I don't know.

Q. -- or just lethargy or
dizziness?

A. First of all, if any consumer
would be sitting and -- (indicating),
like that, I would be very concerned that
they are overmedicated. I didn't see
that in Valerie.

Valerie --

MR. VELEZ: Just let the
record reflect that you indicated
like with the eyes closed, the head
nodding.

Q. Is that what you were
indicating? Because I would rather adopt
your description.

A. (Laughing), okay.

MR. VELEZ: Well, she said
"like", but she didn't explain.

MR. CATAFAGO: Now she's
laughing.

A. No -- well, no. If I saw --

Ferdinand

MR. CATAFAGO: Counsel is smiling.

Could you please just let the record reflect what it's going to reflect.

A. Okay, I will state it. Okay?

MR. VELEZ: She didn't explain what "like" was.

THE WITNESS: Okay.

A. If I saw any consumer whose eyes were closed and were drooping down, I would be very very concerned as to what was going on with that consumer. I did -- I never saw Valerie in that manner. Valerie was, at times, extremely aggressive and unmanageable, and I never saw her sitting -- very, very rarely was Valerie sitting quietly.

Q. Did you observe her being unmanageable and in the way you have just described at any point in 2005?

A. Yes.

Q. At any point after April 13th, 2005.

Ferdinand

this already.

Q. Does Dr. Milos get a copy of the report?

A. He -- part of his report is in there.

Q. But in terms of the ultimate --

A. Team recommendation?

Q. Yes.

A. He sits there on the meeting.

Q. Does he get the written report after the meeting?

A. No, but he sits in on the meeting.

Q. Got it.

MR. CATAFAGO: I have no other questions.

Thank you.

MR. VELEZ: I just have one question.

BY MR. VELEZ:

Q. During the hours that she was awake, if Valerie Young wasn't on her feet, she would be sitting down; correct?

Ferdinand

Q. So would it have been inappropriate for Valerie to sit in the wheelchair instead of a regular chair?

MR. CATAFAGO: Objection to the form of the question.

Q. You can answer.

A. Um -- yes and no.

Generally, she probably should have sat in a regular chair. But if Valerie went to sit in a wheelchair, rather than the staff trying to fuss with Valerie, to get her out, and having an incident as a result of it, they may have left her in the regular chair -- in the wheelchair.

MR. VELEZ: Okay, no further questions.

(Time noted: 3:30 p.m.)

EXHIBIT K

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - -x

5 Estate of VALERIE YOUNG, by VIOLA
6 YOUNG, as Administratrix of the
Estate of Valerie Young, and LORETTA
7 YOUNG LEE,

8
9 Plaintiffs,

10 -against-

11 STATE OF NEW YORK OFFICE OF MENTAL
12 RETARDATION AND DEVELOPMENTAL
13 DISABILITIES, PETER USCHAKOW,
14 personally and in his official
15 capacity, JAN WILLIAMSON, personally
16 and in her official capacity, SURESH
17 ARYA, personally and in his individual
18 capacity, KATHLEEN FERDINAND,
19 personally and in her official
20 capacity, GLORIA HAYES, personally
21 and in her official capacity,
22 DR. MILOS, personally and in his
23 official capacity,

24 Defendants.

25 - - - - -x

75 Morton Street
New York, New York
April 18, 2008
10:25 A.M.

GLORIA HAYES

direct care supervisors, I would supervise them.

Q. Would that be the only time that you would be supervising the direct care workers?

A. No. If they need training. Or if they needed -- if there was a memo that had to be given out to them, or if I went to a meeting, then, if I was expected to speak with all the direct care workers, I would do that.

Q. With regard to Valerie Young, did there come a time that you learned that she had suffered from a deep vein thrombosis?

A. Yes.

Q. What you did you learn that?

A. I don't recall.

Q. How did you learn that?

A. From Dr. Milos.

Q. Was that before or after she had died?

A. After.

Q. Did Dr. Milos, or anyone else,

GLORIA HAYES

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A. No.

Q. Was it within six months of her death?

A. I'm sure it was. I don't recall.

Q. Do you recall if it was within three months of her death; if you recall?

A. I don't recall.

Q. With regard to the unit that you were the unit supervisor for, approximately how many patients are within that unit?

A. Now or at that time?

Q. Now.

A. Approximately... maybe 49 to 50.

Q. What about now?

A. That's it.

Q. What about at the time?

A. At the time, it was probably, I think, it was about 60, 70, I'm not sure.

Q. You were the only unit supervisor --

A. Yes.

Q. -- for that unit?

How long did you have that

GLORIA HAYES

communicated to you?

A. From my team leader with a team meeting.

Q. Are you aware of any special precautions that were ever discussed with you regard to Valerie Young prior to her death?

A. I recall her having to be transported in a wheelchair. But she was being ambulated when she wasn't being transported, or when she didn't have to use the wheelchair for any special reasons.

Q. Would you say Valerie Young was fully ambulatory, somewhat ambulatory, or not all ambulatory in the month before her death?

A. In the month before... I don't know the time, but she was fully ambulatory. And then she needed a wheelchair. I don't know how long before her death it was, I don't remember, but she needed a wheelchair for transport.

Q. Do you remember if she received

GLORIA HAYES

any physical therapy in the year before
her death?

A. She received physical therapy,
yes.

Q. When was the last time, if you
know, that she received physical therapy?

A. I don't remember.

Q. Can you tell us if it was more or
less than three months before her death,
if you can?

A. I believe it was less than three
months before her death.

Q. How do you know she received
physical therapy?

A. Because any time something was
going to be done, we have a team meeting.

Q. Other than the fact that it may
have been discussed or was discussed at a
team meeting, do you have any personal
knowledge of her receiving physical
therapy?

A. Yes. She would be taken to PT.

Q. You know she would have been
taken --

GLORIA HAYES

Q. Do you recall any other discussions that any team members had in your presence regarding the side effects of the medication that was being administered to Valerie Young was having?

A. No.

Q. Was she unsteady on her feet in the months before her death?

A. Yes.

Q. Was she able to ambulate without assistance?

A. She would ambulate with assistance, but sometimes she would jump up and ambulate on her own, and she was unsteady.

Q. How many people would assist her when she needed to ambulate?

A. Most of the time, just one person.

Q. I am going to show you what has been marked as Hayes Exhibit C, Bates stamped Young 7743 through 7744. Please tell me if you recognize that document.

A. Okay.

GLORIA HAYES

quote: Wheelchair for all mobility needs, do you know if, as a result of that recommendation, the mode of treatment was changed in any way, or shape, or form at any time from the date of this document, April 20, 2005, until the death of Valerie Young?

A. I don't know if it changed. I don't believe so.

Q. What is your understanding of that recommendation, quote: Wheelchair for all mobility needs?

A. My understanding is, when she needed to be moved from one area to the other, that they should use the chair, the wheelchair. When she needed to be transported to program, or PT, or OT, they needed to use the wheelchair.

But she wasn't -- she had mobility -- she was out of the chair sometimes, and she would sit in one of the living room area chairs.

Q. Looking at Exhibit C, there is nothing -- there's no recommendation as to

GLORIA HAYES

A. I'm trying to think if it was her at that time... I think she came in 2005.

Q. How many different wing leaders have there been on the wing since 2003?

A. Oh, gosh, let me see. We have on the day shift at least since Valerie's death or before --

Q. Since 2003?

A. Since 2003 it was one, two, three... approximately four.

Q. That's four for the day shift?

A. Day shift.

Q. What about the night shift?

A. Night shift, three.

Q. Who was the night shift wing leader at the time of Valerie's death?

A. Toni McNeil.

Q. Now, you were not on site at the time of her death?

A. Right.

Q. You were at home?

A. Yes.

Q. Were you on call at all?

A. They called the team leader.

GLORIA HAYES

the night before.

Q. Do you know how much movement out of her wheelchair she had in the six hours before her death, if any?

MR. VELEZ: Objection.

A. I can't tell you how much movement she had.

Q. Because you weren't there?

A. Because I wasn't there.

Q. What about in the 12 hours before her death, if you remember?

A. The only way I can answer that is if I knew the day of week she died. And I don't recall that day right now.

Q. She died on June 19, 2005. I don't know the date, but we can get it.

It was a Sunday.

A. Okay, that's my day off.

Q. So you weren't there at all; you weren't there at all on Sunday?

A. (Indicating.)

Q. Did you ever see anything or hear anything as to her physical activity, as to how much movement she had, through

GLORIA HAYES

you know. But they would do the same things, like walk her around, and so she would ambulate.

Q. Are you done?

A. Yes.

Q. You don't recall who told you this?

A. I don't recall.

Q. Can you recall when you were told this, whether it was before or after her death that you were told this?

A. It was after.

Q. After?

A. Yes.

Q. Okay.

Were you ever made aware of the official state findings regarding Valerie's death?

A. No.

Q. Were you ever made aware of the suspicion that she hadn't been ambulated and hadn't been moved around prior to her death?

MR. VELEZ: Objection. Give a

1 GLORIA HAYES

2 A. I wasn't there in January.

3 Q. This is January 2003 and you had
4 not yet joined BDC --

5 A. No.

6 Q. -- as a Residential Unit
7 Supervisor; is that correct?

8 A. Right.

9 Q. Incidentally, how many different
10 wheelchairs did you see Valerie use?

11 A. There was only one assigned to
12 her.

13 There were times that she would
14 actually try to get into the wheelchair
15 herself.

16 Q. In the time from 2003 until her
17 death, you remember only one wheelchair?

18 MR. VELEZ: One type of
19 wheelchair or her using a wheelchair
20 once?

21 MR. CATAFAGO: Her using only
22 one, one type of wheelchair, one
23 specific wheelchair.

24 A. There are so many of them. There
25 are so many different chairs... I don't

1 GLORIA HAYES

2 Valerie's ability to walk, was that
3 discussed at the meeting?

4 A. Repeat that, please.

5 MR. CATAFAGO: Please read that
6 back.

7 (The requested portion of the
8 record was read.)

9 MR. CATAFAGO: Mr. Velez, don't
10 do that.

11 Let me withdraw the question.

12 Q. As of April 13, 2005, was Valerie
13 Young fully ambulatory with good range of
14 motion in her extremities?

15 A. As of April 13th... I don't
16 remember exactly when during that time,
17 but Valerie could ambulate. She was given
18 the chair at certain points for
19 transporting her around the wing to and
20 from program or whatever, but staff would
21 walk her. She sometimes -- many times --
22 she would get up by herself.

23 Q. Was she fully ambulatory around
24 April 13th --

25 A. I can't recall the date.

GLORIA HAYES

Q. Take a look at the document Bates stamped 7653 and tell me if you recognize it. It's a summary --

A. No.

Q. Have you ever seen that document before? I am just going to ask you one question about it.

A. No. I have never seen it.

Q. Did Valerie Young, as of April 13, 2005, have any apparent major physical limitations?

A. According to this, she had no apparent major physical limitations.

Q. Did she -- to your perception and observation -- did she have any apparent major physical limitations?

A. The problem is I can't remember the dates. But this says so, you know... I don't remember the date of that.

Q. Let me see if I can refresh your recollection. That document is dated -- in connection with the April 13th annual report -- April 13, 2005 -- but on April 20, 2005, in Exhibit C that you have

1 GLORIA HAYES

2 MR. CATAFAGO: Counsel, I am not
3 trying to mislead the witness.

4 Q. I'm only asking: Does reading
5 this document refresh your recollection as
6 to your information and knowledge, as of
7 April 13th, 2005, with respect to what, if
8 any, apparent physical limitations the
9 decedent had, and what her ambulatory
10 status was, if any? Does that refresh
11 your recollection?

12 A. I recall being at this meeting on
13 April 20, 2005. What was said in the
14 meeting, I don't recall unless I read it.

15 Q. Take a look at the document and
16 tell me whether reading that refreshes
17 your recollection as to Valerie's physical
18 limitations and ambulatory status on
19 April 13, 2005 from reading Exhibit C.

20 (Witness complies.)

21 A. Okay. This document is saying
22 she has unsteadiness. She was falling.

23 (Indicating).

24 This one is saying she has no
25 apparent major physical limitations. The

GLORIA HAYES

"fully ambulatory"? Have you established the meaning of that term?

Q. Do you know what that term means?

A. Can you tell me your definition?

Q. It's not my knowledge I'm concerned about. It was used at the meeting, and it's used in the IDT report.

A. Because this is saying she is fully ambulatory.

Q. Right.

A. Okay.

Q. I'm asking: Do you agree?

A. I will tell what I feel. I feel you can be fully ambulatory and still, you know, you are walking, but you might be unsteady. That's how I feel.

Q. I'm showing you a document marked at Kathleen Ferdinand's deposition. It is Bates stamped CQC 197, and it's marked as Exhibit 3. It's an occupational therapy note dated April 27, 2005 relating to Valerie Young.

Have you seen this document before?

GLORIA HAYES

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A. Yes.

Q. Do you know if that was done?

A. Yes.

Q. Who was responsible for making such entries?

A. Direct care staff.

Q. Who was supervising them?

A. The wing leader.

Q. Do you know of any record at all of her being moved, or of her receiving leg elevation, or any kind of ambulation in the hours before her death?

A. Well, I know she was being ambulated because I have seen it myself.

Q. Except you weren't there.

A. I wasn't there in the hours before she passed.

Q. You testified that you had Sunday off --

A. I wasn't there in the hours before she died.

Q. Let me finish the question.

A. I'm sorry.

Q. In fact you weren't there Sunday,

GLORIA HAYES

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Q. Did you discuss Valerie Young's care and treatment with Kathleen Ferdinand or with Dr. Milos outside of the meetings?

A. Yes.

Q. What did you discuss with Ms. Ferdinand?

A. Outside the meetings, we would discuss how to write up a memo for staff or something pertaining to that.

Q. Did you ever observe Valerie Young, in 2005, sitting in a wheelchair when she wasn't being transported?

A. No. But I have seen when she would get into a wheelchair herself.

Q. Would staff ever put her in a wheelchair if she wasn't being taken from one place to another?

A. Staff was good with Valerie. They would do what they were instructed to with Valerie. She would sometimes go and get into the wheelchair, and they would have a hard time trying to take her out.

Q. When would she want to be in the wheelchair?

GLORIA HAYES

A. Sometimes she would get in by herself. She go from the sofa and climb into the wheelchair, you know, because staff would be ambulating her around the wing, you know, and I saw that a lot.

Q. Did they have a hard time with her ambulating?

A. At times.

Q. What kind of a hard time?

A. Like sometimes she would lean over on them.

Q. Would she stumble sometimes?

A. Are you asking if I saw her stumble while they were holding her?

Q. Would you see her lean if more than one person would hold her?

A. Well, usually one person -- two people would help her when they would take her to the bathroom, in and out of the bathroom. And sometimes she would lean.

Q. Have you ever discussed Valerie Young's care and treatment with Jan Williamson?

A. No.

GLORIA HAYES

particular day when she would call.

Q. Did she ever express concern about her medications?

A. Not to me.

Q. Do you know if she expressed that concern to anyone?

A. I don't know.

Q. Did you ever discuss Valerie Young's treatment and care with Miranda Wallace?

A. Yes.

Q. Tell me what that discussion was.

A. I told her to make sure the consumer was being ambulated, and make sure that two people would assist her when she was on the evening shift. I told her about staff, to make sure there were two people who would take her to and from the bathroom. Plus I told her to make sure and get everyone to sign the in-service training paper on her.

Q. Anything else?

A. Whatever else was necessary for a particular time. I don't remember

GLORIA HAYES

responsibilities that the Residential Unit Supervisor has.

I would like you to tell me this:
How did you assign and schedule staff members to perform direct care and supervision and training of consumers?

A. How did I do that? I would have meetings. I would send out memos. I would have in-service training.

Q. How often were those meetings held?

A. I have meetings with the supervisors once a month. And they have meetings with their direct care staff. And periodically I have meetings with the whole direct care staff. And with the supervisors. I wouldn't do it like every month. I would do it like every three months or so. I just do that periodically.

Q. Do you recall any meeting at which -- formal meeting -- at which the ambulatory needs of Valerie Young were discussed?

1 GLORIA HAYES

2 A. Do I recall any, yes. I have
3 been to meetings about that when it was
4 time for her to ambulate. I would have
5 meetings with the supervisors. They in
6 turn would have a meeting with the direct
7 care staff.

8 Q. What did you say about ambulating
9 her?

10 A. When the time came, that she
11 should be -- when she was using the
12 wheelchair -- it was only for transporting
13 her; that she needed to be ambulated. I
14 would have a meeting so they would make
15 sure that it would be done. Consistently.
16 I would tell the supervisors and they'd
17 tell the direct care staff.

18 Q. Did you prepare any memos, any
19 written memos, to reflect that?

20 A. I don't know. I have to look and
21 see if there was a formal meeting.

22 MR. CATAFAGO: To the extent
23 those documents haven't been
24 provided --

25 MR. VELEZ: Everything been

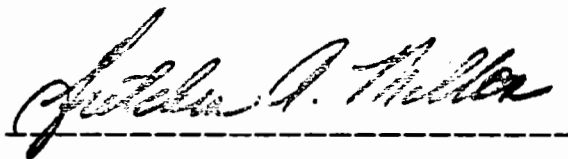
CERTIFICATION

I, GRETCHEN A. MILTON, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of April, 2008.



GRETCHEN A. MILTON

EXHIBIT L

ORIGINAL

1

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - -x

5 ESTATE OF VALERIE YOUNG, by VIOLA
6 YOUNG, as Administratrix of the
7 Estate of Valerie Young, and in her
8 personal capacity, SIDNEY YOUNG,
9 and LORETTA YOUNG LEE,

10 Plaintiffs,

11 -against-

12 STATE OF NEW YORK OFFICE OF MENTAL
13 RETARDATION AND DEVELOPMENTAL
14 DISABILITIES, PETER USCHAKOW,
15 personally and in his official
16 capacity, JAN WILLIAMSON, personally
17 and in her official capacity, SURESH
18 ARYA, personally and in his
19 individual capacity, KATHLEEN
20 FERDINAND, personally and in her
21 official capacity, GLORIA HAYES,
22 personally and in her official
23 capacity, DR. MILOS, personally and
24 in his official capacity;
25

Defendants.

18 - - - - -x

19 350 Fifth Avenue
20 New York, New York

21 March 27, 2008
22 10:25 A.M.
23
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25

1 JOVAN MILOS, M.D.

2 specialist different than those of medical
3 doctors?

4 A. They are no different.

5 Q. With regard to the BDC residents
6 under your care, those 55 to 70 residents,
7 are you familiar with a patient by the
8 name of Valerie Young?

9 A. Yes, I am familiar.

10 Q. When did you first see Valerie
11 Young?

12 A. I think it was around
13 January 2002.

14 Q. Is it correct that she was one of
15 the 55 to 70 residents at BDC under your
16 care as a medical specialist?

17 A. Yes.

18 Q. Was there anyone --

19 MR. CATAFAGO: Withdrawn.

20 Q. During the time that Valerie
21 Young was under your care, did you report
22 to anyone at BDC?

23 A. I don't understand the question.

24 Q. With regard to the medical
25 services and care you provided for Valerie

JOVAN MILOS, M.D.

A. Yes.

Q. Were you concerned at all about the side effects of the medications that were prescribed to Valerie Young at any time?

MR. VELEZ: Objection. That is very broad.

If you can answer, go ahead.

Q. I am asking from your own recollection.

A. I think in consideration of all the -- any time I prescribe a medication I look into the possible side effects and interactions.

Q. Do you remember what the specific side effects, if any, or interactions, were that you were most concerned about in connection with Valerie Young?

A. No.

Q. Did you ever discuss the use of a wheelchair for Valerie Young with anyone?

A. Yes.

Q. Who did you discuss that subject with?

JOVAN MILOS, M.D.

to issue a wheelchair, to give Valerie a wheelchair, to transfer her from one building to the other building.

Q. Who was it prescribed by?

A. It was discussed with the team.

Q. Who made the ultimate decision to put her in a wheelchair?

A. It was the entire team --

Q. Who was the person in charge of the team? Who was the team leader?

A. Kathleen Ferdinand.

Q. Do you specifically recall discussions about a wheelchair for Valerie Young with Kathleen Ferdinand?

A. We discussed it as a team.

Q. How many times did you discuss with the team the use of a wheelchair for Valerie Young?

A. I don't remember.

Q. Did you ever discuss anything else with Kathleen Ferdinand, other than the wheelchair, relating to Valerie Young?

A. We had team meetings about Valerie.

JOVAN MILOS, M.D.

Q. As of the date of this team meeting, as indicated on the first page of Exhibit 2, of July 20, 2004, had Valerie Young been placed in a wheelchair?

A. I don't recall.

Q. Do you remember when she was placed in a wheelchair?

A. She was not placed in a wheelchair. A wheelchair was ordered to transport her from one buildings to another.

Q. Do you recall when that wheelchair was ordered?

A. I would have to look in the records.

Q. You have no independent recollection?

A. No.

Q. In this first page of Exhibit 2, it says under: Involvement of mother, "very involved."

What is your understanding of the level of contact Viola Young had, or what was the purpose of including that?

JOVAN MILOS, M.D.

Q. Do you recall what, if anything, you said at the meeting?

A. Repeat that.

Q. Do you recall what you said, if anything, at the meeting?

A. I don't remember.

Q. Do you remember what, if anything, anyone said at the meeting?

A. I don't recall specifically.

Q. The summary of the meeting is signed by Kathleen Ferdinand, is that correct, as team leader?

A. It looks like that.

Q. You agreed to these recommendations?

A. (Indicating.)

Q. You agreed with the first recommendation of a wheelchair for all mobility purpose needs; do you see that?

A. That is something all team members agreed to. That's per this paper, yes.

Q. Was that ever reassessed or reevaluated at any time from April 20,

JOVAN MILOS, M.D.

2005 until Valerie's death?

A. I don't know.

Q. I am sorry?

A. I'm not aware of that. I have to look at the record.

Q. Do you remember specifically ever reevaluating the need to place her in a wheelchair for all her mobility needs at any time from the time of this memo, April 20, 2005, until date of her death?

A. What's the question?

MR. CATAFAGO: Please read that back.

(The requested portion of the record was read.)

A. I do not recall.

Q. Do you recall if any team member advised you of any attempt to reevaluate this recommendation at any time from April 20, 2005 until the time of her death?

A. I don't recall that.

Q. How many different wheelchairs were used to place Valerie in for all

JOVAN MILOS, M.D.

mobility needs?

A. I don't know that. I do not know.

Q. Was it more than one wheelchair?

A. I do not know that.

Q. Did you ever personally observe anyone providing physical therapy to Valerie Young after April 20, 2005?

A. Physical therapy was provided by the physical therapy department.

Q. Did you see anyone --

A. I do not go there.

Q. Did anyone ever tell you or show you any document that reflected that she was receiving any physical therapy at all at any time after April 20, 2005?

A. It should be there.

Q. I am asking if you --

A. I did not know that.

MR. VELEZ: Counsel, please let him finish the answer.

MR. CATAFAGO: He did.

MR. VELEZ: Did you finish?

THE WITNESS: I don't know what

1 JOVAN MILOS, M.D.

2 status in the three months before her
3 death?

4 A. She was stable, yes, stable for
5 Valerie Young.

6 Q. You also wrote that there was no
7 agitation, no SIB, or aggression observed.

8 What is "SIB"?

9 A. Self-injurious behavior.

10 Q. Was that accurate when you wrote
11 that?

12 A. It was accurate.

13 Q. You also wrote in the column
14 below that, referring to the decedent,
15 that she utilized a wheelchair for
16 transportation to and from program and
17 ambulated with assistance in the
18 residential unit?

19 A. Yes.

20 Q. What did you mean by: "Ambulated
21 with assistance in the residential unit"?

22 A. I meant she was helped by staff.

23 Q. She would walk with the staff?

24 A. Yes.

25 Q. How many times did you see her do

1 JOVAN MILOS, M.D.

2 that?

3 A. When I was making rounds in the
4 morning and in the afternoon, I saw, on
5 several occasions, her doing that.

6 Q. On April 20, 2005, the special
7 case conference that you attended and
8 signed off on indicated a recommendation
9 that she use a wheelchair for all
10 mobility.

11 MR. VELEZ: Where are you
12 referring to?

13 MR. CATAFAGO: I am looking at
14 Exhibit 5.

15 Q. For all mobility needs, and I'm
16 quoting directly from the second page of
17 Exhibit 5.

18 Do you see that?

19 A. Yes.

20 Q. What was the intent there with
21 respect to all mobility needs? What is
22 intended by that term?

23 A. My interpretation of that is it
24 is to be used just for transfer from, for
25 transfer from building to building.

1 JOVAN MILOS, M.D.

2 A. Again I am the physician. I am
3 present five days a week, eight hours a
4 day, and I was seeing Valerie, Ms. Young.

5 Q. How often would you see Valerie
6 Young on a daily basis?

7 A. At least twice in the morning and
8 afternoon. I would say that she was
9 stable compared to her past behavior.

10 Q. You didn't say that in your
11 report.

12 Is there any reason you didn't
13 say that in your report?

14 A. It might be an omission.

15 Q. It may be an omission?

16 A. Yes.

17 MR. CATAFAGO: I want to have
18 this marked and then have you take a
19 look at it.

20 This is Plaintiff's Exhibit 11.

21 (The document entitled,
22 "Referral," Bates No. CQC95 was hereby
23 marked as Plaintiff's Exhibit 11 for
24 identification, as of this date.)

25 MR. VELEZ: Counselor, the report

JOVAN MILOS, M.D.

Q. Do you know if it occurred?

A. I was not physically present when they did it.

Q. Did anyone tell you that it was done?

A. I don't recall that.

Q. Do you know who would have been in charge of providing that physical therapy treatment that you prescribed for Valerie Young twice a week?

A. Physical therapy.

Q. Do you know the name of the physical therapist, of that individual, or those individuals, as of May 2, 2005 until Ms. Young passed away on June 19, 2005?

A. I do not know which physical therapist was assigned to her.

Q. Do you know if anyone was assigned?

A. Somebody was assigned.

Q. But you don't know the person's name?

A. No.

Q. When was the last time you saw

JOVAN MILOS, M.D.

Q. What is this document?

A. That's a referral for physical therapy.

Q. Is this a referral for physical therapy that you prescribed for Valerie Young; right?

A. Yes. And also a request for the ankle/foot orthosis.

Q. Is this a request for physical therapy that you handwrote; right?

A. Yes.

Q. So the top part of the document bears your handwriting and is signed --

A. Yes.

Q. What is the date of that handwriting?

A. April 27th.

Q. Year?

A. 2005.

Q. What did you write under: "Present Medical Concerns"?

A. Left foot drop. Please evaluate for physical therapy, range of motion, to prevent fixed constrictures. Also

1 JOVAN MILOS, M.D.

2 Q. I'm showing you now Exhibit 11.
3 Exhibit 11 refers to physical therapy
4 because of left foot drop; dated April 27,
5 2005.

6 Would there have been any reason
7 for you not to give a referral as soon as
8 you were aware of the problem?

9 A. I made a referral when I was
10 aware of the problem. I made a referral
11 to two neurologists to find the cause of
12 problem, to find treatment.

13 The physical therapy was just to
14 prevent constrictures and to provide the
15 splinting for the orthosis.

16 MR. CATAFAGO: This will be
17 Plaintiff's Exhibit 14. It is Bates
18 No. CQC138.

19 (The Referral document Bates
20 No. CQC138 was hereby marked as
21 Plaintiff's Exhibit 14 for
22 identification, as of this date.)

23 Q. Do you recognize the handwriting
24 on this document?

25 A. What is the question?

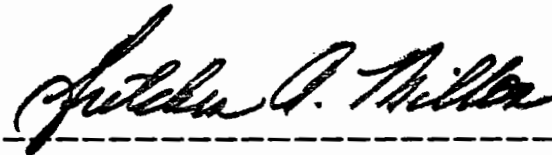
CERTIFICATION

I, GRETCHEN A. MILTON, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of April, 2008.



GRETCHEN A. MILTON